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## **TITLE 26**

### **Public Utilities**

#### **CHAPTER 1. PUBLIC SERVICE COMMISSION**

##### **Subchapter III-A. Renewable Energy Portfolio Standards**

###### **§ 351. Short title; declaration of policy.**

(a) This subchapter shall be known and may be cited as the "Renewable Energy Portfolio Standards Act."

(b) The General Assembly finds and declares that the benefits of electricity from renewable energy resources accrue to the public at large, and that electric suppliers and consumers share an obligation to develop a minimum level of these resources in the electricity supply portfolio of the state. These benefits include improved regional and local air quality, improved public health, increased electric supply diversity, increased protection against price volatility and supply disruption, improved transmission and distribution performance, and new economic development opportunities.

(c) It is therefore the purpose and intent of the General Assembly in enacting the Renewable Energy Portfolio Standards Act to establish a market for electricity from these resources in Delaware, and to lower the cost to consumers of electricity from these resources.

[75 Del. Laws, c. 205, § 1.](#)

###### **§ 352. Definitions.**

As used in this subchapter:

(1) "Alternative compliance payment" means a payment of a certain dollar amount per megawatt hour, which a retail electricity supplier or municipal electric company may submit in lieu of supplying the minimum percentage from Eligible Energy Resources required under Schedule I in § 354 of this title.

(2) "Commission" means the Delaware Public Service Commission.

(3) "Compliance year" means the calendar year beginning with June 1 and ending with May 31 of the following year, for which a retail electricity supplier or municipal electric company must demonstrate that it has met the requirements of this subchapter.

(4) "Customer-sited generation" means a generation unit that is interconnected on the end-use customer's side of the retail electricity meter in such a manner that it displaces all or part of the metered consumption of the end-use customer.

(5) "DNREC" means Delaware Department of Natural Resources and Environmental Conservation.

(6) "Eligible energy resources" include the following energy sources located within or

imported into the PJM region:

- a. Solar photovoltaic or solar thermal energy technologies that employ solar radiation to produce electricity or to displace electricity use;
- b. Electricity derived from wind energy;
- c. Electricity derived from ocean energy including wave or tidal action, currents, or thermal differences;
- d. Geothermal energy technologies that generate electricity with a steam turbine, driven by hot water or steam extracted from geothermal reservoirs in the earth's crust;
- e. Electricity generated by a fuel cell powered by renewable fuels;
- f. Electricity generated by the combustion of gas from the anaerobic digestion of organic material;
- g. Electricity generated by a hydroelectric facility that has a maximum design capacity of 30 megawatts or less from all generating units combined that meet appropriate environmental standards as determined by DNREC;
- h. Electricity generated from the combustion of biomass that has been cultivated and harvested in a sustainable manner as determined by DNREC, and is not combusted to produce energy in a waste to energy facility or in an incinerator, as that term is defined in Title 7;
- i. Electricity generated by the combustion of methane gas captured from a landfill gas recovery system; provided however, that:
  1. Increased production of landfill gas from production facilities in operation prior to January 1, 2004, demonstrates a net reduction in total air emissions compared to flaring and leakage;
  2. Increased utilization of landfill gas at electric generating facilities in operation prior to January 1, 2004;
    - A. Is used to offset the consumption of coal, oil, or natural gas at those facilities;
    - B. Does not result in a reduction in the percentage of landfill gas in the facility's average annual fuel mix when calculated using fuel mix measurements for 12 out of any continuous 15-month period during which the electricity is generated; and
    - C. Causes no net increase in air emissions from the facility; and
  3. Facilities installed on or after January 1, 2004, meet or exceed 2004 federal and state air emission standards, or the federal and state air emission standards in place on the day the facilities are first put into operation, whichever is higher.

(7) "End-use customer" means a person or entity in Delaware that purchases electrical energy at retail prices from a retail electricity supplier or municipal electric company.

(8) "Fund" means the Delaware Green Energy Fund.

(9) "GATS" means the generation attribute tracking system developed by PJM.

(10) "Generation attribute" means a nonprice characteristic of the electrical energy output of a generation unit including, but not limited to, the unit's fuel type, geographic location, emissions, vintage and RPS eligibility.

(11) "Generation unit" means a facility that converts a fuel or an energy resource into electrical energy.

(12) "Municipal electric company" means a public corporation created by contract between 2 or more municipalities pursuant to provisions of Chapter 13 of Title 22 and the electric utilities that are municipally owned within the State of Delaware.

(13) "New renewable generation resources" means eligible energy resources first going into commercial operation after December 31, 1997.

(14) "PJM" or "PJM interconnection" means the regional transmission organization (RTO) that coordinates the movement of wholesale electricity in the PJM region, or its successors at law.

(15) "PJM region" means the area within which the movement of wholesale electricity is coordinated by PJM Interconnection. The PJM region is as described in the Amended and Restated Operating Agreement of PJM.

(16) "Renewable energy credit" ("REC") means a tradable instrument that is equal to 1 megawatt-hour of retail electricity sales in the State that is derived from eligible energy resources and that is used to track and verify compliance with the provisions of this subchapter.

(17) "Renewable energy portfolio standard" and "RPS" means the percentage of electricity sales at retail in the state that is to be derived from eligible energy resources.

(18) "Renewable fuel" means a fuel that is derived from eligible energy resources. This term does not include a fossil fuel or a waste product from a fossil fuel source.

(19) "Retail electricity product" means an electrical energy offering that is distinguished by its generation attributes and that is offered for sale by a retail electricity supplier or municipal electric company to end-use customers.

(20) "Retail electricity supplier" means a person or entity that sells electrical energy to end-use customers in Delaware, including but not limited to nonregulated power producers, electric utility distribution companies supplying standard offer, default service, or any successor service to end-use customers. A retail electricity supplier does not include a municipal electric company for the purposes of this subchapter.

(21) "Rural electric cooperative" means a nonstock, nonprofit, membership corporation organized pursuant to the federal Rural Electrification Act of 1936 [7 U.S.C § 901 et seq.] and operated under the cooperative form of ownership.

(22) "Solar Alternative Compliance Payment" means a payment of a certain dollar amount per megawatt-hour, which a retail electricity supplier or municipal electric supplier may submit in lieu of supplying the minimum percentage from solar photovoltaics required under Schedule I in § 354 of this title.

(23) "Solar Renewable Energy Credit" ("SREC") means a tradable instrument that is equal to 1 megawatt-hour of retail electricity sales in the State that is derived from solar photovoltaic energy resources and that is used to track and verify compliance with the provisions of this subchapter.

(24) "Total retail sales" means retail sales of electricity within the State of Delaware exclusive of sales to any industrial customer with a peak demand in excess of 1,500 kilowatts.

[75 Del. Laws, c. 205, § 1; 76 Del. Laws, c. 165, §§ 1-3.](#)

### **§ 353. Renewable energy portfolio standards administration.**

(a) The Delaware Public Service Commission shall determine, verify, and assure compliance

with renewable energy portfolio standards established pursuant to this subchapter that apply to all retail electricity sales in the State, except retail electricity sales of municipal electric companies. Any rural electric cooperative that is opted-out of Commission regulation by its membership pursuant to § 223 of this title shall, for all purposes of administering and applying the provisions of this subchapter, be treated as a municipal electric company during any period of time that the rural electric cooperative is exempt from Commission regulation.

(b) The Commission shall implement renewable energy portfolio standards pursuant to this subchapter that apply to all retail electricity sales in the state except sales to any industrial customer with a peak demand in excess of 1,500 kilowatts.

[75 Del. Laws, c. 205, § 1.](#)

**§ 354. Renewable energy portfolio standards, eligible energy resources and industrial exemption.**

(a) The total retail sales of each Retail Electricity Product sold to Delaware end-use customers by a retail electricity supplier or municipal electric company during any given compliance year shall include a minimum percentage of electrical energy sales with eligible energy resources and solar photovoltaics as follows:

SCHEDULE I		
Compliance Year (beginning June 1 <sup>st</sup> )	Minimum Cumulative Percentage from Eligible Energy Resources	Minimum Cumulative Percentage from Solar Photovoltaics*
2010	5.00%	0.018%
2011	7.00%	0.20%
2012	8.50%	0.40%
2013	10.00%	0.60%
2014	11.50%	0.80%
2015	13.00%	1.00%
2016	14.50%	1.25%
2017	16.00%	1.50%
2018	17.50%	1.75%
2019	19.00%	2.00%
2020	20.00%	2.25%
2021	21.00%	2.50%
2022	22.00%	2.75%
2023	23.00%	3.00%
2024	24.00%	3.25%
2025	25.00%	3.50%
* Minimum Percentage from Eligible Energy Resources Includes the Minimum Percentage from Solar Photovoltaics.		

Any portion of a retail electricity supplier's renewable energy supply portfolio for 2007, 2008

and 2009 compliance years that is acquired under wholesale renewable energy supply entered into pursuant to the 2005 or 2006 Delaware Standard Offer Service (SOS) auctions shall be subject to the provisions of this subchapter, as set forth in Schedule I (Revised) below that were in effect on the date of the 2005 or 2006 SOS auction:

SCHEDULE I (Revised)		
Compliance Year (beginning June 1 <sup>st</sup> )	Minimum Cumulative Percentage from Solar Photovoltaics	Minimum Cumulative Percentage from Eligible Energy Resources*
2007	--	1.00%
2008	0.011%	1.50%
2009	0.014%	2.00%
2010	0.018%	5.00%
2011	0.048%	7.00%
2012	0.099%	8.50%
2013	0.201%	10.00%
2014	0.354%	11.50%
2015	0.559%	13.00%
2016	0.803%	14.50%
2017	1.112%	16.00%
2018	1.547%	18.00%
2019	2.005%	20.00%
*Minimum Percentage from Eligible Energy Resources Includes the Minimum Percentage from Solar Photovoltaics.		

(b) Cumulative minimum percentage requirements of eligible energy resources and solar photovoltaics shall be established by Commission rules for compliance year 2026 and each subsequent year. In no case shall the minimum percentages established by Commission rules be lower than those required for compliance year 2025 in Schedule I, subsection (a) of this section. Each of the rules setting such minimum percentage shall be adopted at least 2 years prior to the minimum percentage being required.

(c) Beginning in compliance year 2010, and in each compliance year thereafter, the Commission may review the status of Schedule I and report to the legislature on the status of the pace of the scheduled percentage increases toward the goal of 25% from eligible energy resources. If the Commission concludes at this time that the schedule either needs to be accelerated or decelerated, it may also make recommendations to the General Assembly for legislative changes to the RPS.

(d) Beginning in compliance year 2014, and in each compliance year thereafter, the Commission may, in the event of circumstances specified in this subsection and after conducting hearings, accelerate or slow the scheduled percentage increases towards meeting the goal of 25%. The Commission may only slow the increases if the Commission finds that at least 30% of RPS compliance has been met through the alternative compliance payment for 3 consecutive years, despite adequate planning by the retail electricity suppliers. The Commission may only accelerate the scheduled percentage increases after finding that the average price for renewable energy credits eligible for RPS compliance has, for 2 consecutive years, been below a predetermined market-based price threshold to be established by the Commission. The Commission shall establish the predetermined market-based price threshold in consultation with

the Delaware Energy Office. Rules that would alter the percentage targets shall be promulgated at least 2 years before the percentage change takes effect. In no event shall the Commission reduce the percentage target below any level reached to that point.

(e) [Repealed.]

(f) For each retail electricity supplier or municipal electric company, no more than 1% of each year's total retail sales may be met from eligible energy resources that are not new renewable generation resources. In compliance year 2026, and for each compliance year thereafter, all eligible energy resources used to meet cumulative minimum percentage requirements set by the Commission rules shall be new renewable generation resources.

(g) A retail electricity supplier or municipal electric company shall not use energy used to satisfy another state's renewable energy portfolio requirements for compliance with Schedule I of subsection (a) of this section.

(h) An applicant's compliance with Schedule I of subsection (a) of this section shall be based on historical data, collected in a manner consistent with industry standard and, with respect to retail electricity suppliers, Commission regulations. A retail electricity supplier or municipal electric company shall meet the renewable energy portfolio standards by accumulating the equivalent amount of renewable energy credits and solar renewable energy credits that equal the percentage required under this section.

(i) The State Energy Coordinator in consultation with the Commission, may freeze the minimum cumulative solar photovoltaics requirement for regulated utilities if the Delaware Energy Office determines that the total cost of complying with this requirement during a compliance year exceeds 1% of the total retail cost of electricity for retail electricity suppliers during the same compliance year. In the event of a freeze, the minimum cumulative percentage from solar photovoltaics shall remain at the percentage for the year in which the freeze is instituted. The freeze shall be lifted upon a finding by the Coordinator, in consultation with the Commission, that the total cost of compliance can reasonably be expected to be under the 1% threshold. The total cost of compliance shall include the costs associated with any ratepayer funded state solar rebate program, SREC purchases, and solar alternative compliance payments.

(j) The State Energy Coordinator in consultation with the Commission, may freeze the minimum cumulative eligible energy resources requirement for regulated utilities if the Delaware Energy Office determines that the total cost of complying with this requirement during a compliance year exceeds 3% of the total retail cost of electricity for retail electricity suppliers during the same compliance year. In the event of a freeze, the minimum cumulative percentage from eligible energy resources shall remain at the percentage for the year in which the freeze is instituted. The freeze shall be lifted upon a finding by the Coordinator, in consultation with the Commission, that the total cost of compliance can reasonably be expected to be under the 3% threshold. The total cost of compliance shall include the costs associated with any ratepayer funded state renewable energy rebate program, REC purchases, and alternative compliance payments.

[75 Del. Laws, c. 205, § 1; 76 Del. Laws, c. 165, §§ 4\(a\), \(b\), 5; 77 Del. Laws, c. 451, §§ 1, 2, 4-11.](#)

### **§ 355. Renewable energy credits.**

(a) Energy sold or displaced by customer-sited generation on or after June 1, 2006, may be used to create and accumulate renewable energy credits for the purposes of calculating compliance with the renewable energy portfolio standards established pursuant to this subchapter.

(b) Energy production from customer-sited eligible energy resource may also be used to demonstrate compliance, provided that the facilities are physically located in Delaware.

(c) Aggregate generation from small eligible energy sources, 100 kilowatts of capacity or less, may be used to meet the requirements of Schedule I of § 354(a) of this title, provided that the generators or their agents document the level of generation, as recorded by appropriate metering and power sales, on an annual basis.

[75 Del. Laws, c. 205, § 1.](#)

### **§ 356. Multiple credits for specific energy sources.**

(a) A retail electricity supplier or municipal electric company shall receive 300% credit toward meeting the minimum percentage from Eligible Energy Resources of Schedule I of the renewable energy portfolio standards established pursuant to this subchapter for energy derived from the following sources installed on or before December 31, 2014:

- (1) Customer-sited solar photovoltaic physically located in Delaware; or
- (2) A fuel cell powered by renewable fuels.

(b) A retail electricity supplier or municipal electric company shall receive 150% credit toward meeting the renewable energy portfolio standards established pursuant to this subchapter for wind energy installations sited in Delaware on or before December 31, 2012.

(c) A Commission-regulated electric company shall receive 350% credit toward meeting the renewable energy portfolio standards established pursuant to this subchapter for energy derived from off-shore wind energy installations sited off the Delaware coast on or before May 31, 2017.

(1) To be entitled to 350% credit, contracts for energy and renewable energy credits from such off-shore wind energy installations must be executed by Commission-regulated electric companies prior to commencement of construction of such installations.

(2) Commission-regulated electric companies shall be entitled to such multiple credits for the life of contracts for renewable energy credits from off-shore wind installations executed pursuant to this subsection.

(d) A retail electricity supplier shall receive an additional 10% credit toward meeting the renewable energy portfolio standards established pursuant to this subchapter for solar or wind energy installations sited in Delaware provided that a minimum of 50% of the cost of renewable energy equipment, inclusive of mounting components, are manufactured in Delaware.

(e) A retail electricity supplier shall receive an additional 10% credit toward meeting the renewable energy portfolio standards established pursuant to this subchapter for solar or wind energy installations sited in Delaware provided that the facility is constructed and/or installed with a minimum of 75% in-state workforce.

[75 Del. Laws, c. 205, § 1; 76 Del. Laws, c. 165, § 6; 76 Del. Laws, c. 248, § 1; 77 Del. Laws, c. 451, § 12.](#)

### **§ 357. Proportional credit for eligible landfill gas and biogas.**

A retail electricity supplier or municipal electric company shall receive credit toward meeting renewable energy portfolio standards established pursuant to this subchapter for electricity derived from the fraction of eligible landfill gas or biogas combined with other fuels.

[75 Del. Laws, c. 205, § 1.](#)

### **§ 358. Issuance of renewable energy credits; reporting requirement; alternative compliance payment.**

(a) The Commission shall establish by regulation the mechanisms under which a REC and SREC shall be created and recorded with respect to the entity generating electricity using eligible

energy resources for use in complying with the renewable energy portfolio standards of this subchapter. Once the GATS system is operational and the PJM Interconnection, or a related organization currently known as PJM Environmental Services, Inc. (PJM-ESI), begins issuing RECs and SRECs, the Commission may issue an order approving the use of RECs and SRECs issued by the PJM Interconnection or PJM-ESI for compliance with the renewable energy portfolio Standards of this subchapter.

(b) Beginning June 1, 2007, each retail electricity supplier shall submit an annual report to the Commission, on a form and by a date specified by the Commission, that:

(1) Demonstrates that the retail electricity supplier has complied with the renewable energy portfolio standards established pursuant to this subchapter and includes the submission of the required amount of renewable energy credits; or

(2) Demonstrates the amount of electricity sales for the compliance year by which the retail electricity supplier failed to meet the renewable energy portfolio standard.

(c) Beginning June 1, 2007, each municipal electric company shall submit an annual report to the Delaware Energy Office and the Controller General that:

(1) Demonstrates that the municipal electric company has complied with the RPS established pursuant to this subchapter and includes the submission of the required amount of renewable energy credits; or

(2) Demonstrates the amount of electricity sales for the compliance year by which the municipal electric company failed to meet the RPS.

(d) In lieu of standard means of compliance with this statute, any retail electricity supplier may pay into the Fund an alternative compliance payment of \$25 for each megawatt-hour deficiency between the credits available and used by a retail electricity supplier in a given compliance year and the credits necessary for such retail electricity supplier to meet year's renewable energy portfolio standard. A municipal electric company may pay the alternative compliance payment into a fund established by its municipal members. In subsequent years, the alternative compliance payments for any retail electricity supplier or municipal electricity company shall increase as follows:

(1) If a retail electricity supplier has paid an alternative compliance payment of \$25 for each megawatt-hour in any previous year, then the alternative compliance payment shall be \$50 for each megawatt-hour.

(2) If a retail electricity supplier has paid an alternative compliance payment of \$50 for each megawatt-hour in any previous year, then the alternative compliance payment shall be \$80 for each megawatt-hour.

(3) Alternative compliance payments shall not be more than \$80 for each megawatt-hour.

(4) The State Energy Coordinator shall have the authority to review the alternative compliance payment on an as needed or annual basis to determine reasonableness compared to market REC prices. Following an analysis conducted by the Delaware Energy Office, the State Energy Coordinator shall also have the authority to adjust the alternative compliance payment by 10% in order to achieve reasonableness.

(e) In lieu of standard means of compliance with this statute, any retail electricity supplier may pay into the Fund a Solar Alternative Compliance Payment of \$400 for each megawatt-hour deficiency between the credits available and used by a retail electricity supplier in a given compliance year and the credits necessary for such retail electricity supplier to meet the year's Renewable Energy Portfolio Standard. A municipal electric company may pay the solar alternative compliance payment into a fund established by its municipal members. In subsequent years, the

solar alternative compliance payments for any retail electricity supplier or municipal electricity company shall increase as follows:

(1) If a retail electricity supplier has paid a Solar Alternative Compliance Payment of \$400 for each megawatt-hour in any previous year, then the solar alternative compliance payment shall be \$450 for each megawatt-hour.

(2) If a retail electricity supplier has paid a Solar Alternative Compliance Payment of \$450 for each megawatt-hour in any previous year, then the Solar Alternative Compliance Payment shall be \$500 for each megawatt-hour.

(3) The State Energy Coordinator shall have the authority to review the Solar Alternative Compliance Payment on an as needed or annual basis to determine reasonableness compared to market-based SREC prices. Following an analysis conducted by the Delaware Energy Office, the State Energy Coordinator shall also have the authority to adjust the Solar Alternative Compliance Payment by 20% in order to achieve reasonableness, but not higher than 20% of the competitive market cost of an SREC, determined by the quarterly weighted average cost of meeting the requirement through purchase of an SREC as analyzed by the Delaware Energy Office.

(f)(1) Recovery of costs -- A retail electricity supplier or municipal electric company may recover, through a nonbypassable surcharge, actual dollar for dollar costs incurred in complying with a state mandated renewable energy portfolio standard, except that any compliance fee assessed pursuant to subsection (d) of this section shall be recoverable only to the extent authorized by paragraph (f)(2) of this section.

(2) A retail electricity supplier or municipal electric company may recover any alternative compliance payment if:

a. The payment of an alternative compliance payment is the least cost measure to ratepayers as compared to the purchase of eligible energy resources to comply with a renewable energy portfolio standard; or

b. There are insufficient eligible energy resources available for the electric supplier to comply with a renewable energy portfolio standard.

(3) Any cost recovered under this section shall be disclosed to customers at least annually on inserts accompanying customer bills.

[75 Del. Laws, c. 205, § 1; 76 Del. Laws, c. 165, §§ 7-9; 77 Del. Laws, c. 451, §§ 3, 13-19.](#)

### **§ 359. Renewable energy tracking system.**

(a) The Commission shall establish, maintain or participate in a market-based renewable energy tracking system to facilitate the creation, and transfer of renewable energy credits among retail electricity suppliers. A municipal electric company may elect to participate in the tracking system established by the Commission and may elect to participate in the GATS system once it is operational.

(b) The Commission may contract with a for-profit or a nonprofit entity to administer, or assist in the administration of, the renewable energy tracking system required pursuant to this section.

(c) The renewable energy tracking system shall include a registry of information regarding all:

(1) Available renewable energy credits; and

(2) Renewable energy credit transactions among electric suppliers in the State, including:

a. The creation and application of renewable energy credits; and

b. The number of renewable energy credits sold or transferred.

(d) The renewable energy tracking system registry shall provide current aggregated information to retail electricity suppliers and the public on the status of renewable energy credits created, sold, or transferred in the State. Information contained in the renewable energy tracking system registry shall be available by computer network access through the Internet; provided, however, that the Commission may establish reasonable limitation on the disclosure of commercially-sensitive information.

[75 Del. Laws, c. 205, § 1.](#)

### **§ 360. Renewable energy trading.**

(a) A retail electricity supplier or municipal electric company may use accumulated renewable energy credits or solar renewable energy credits to meet the renewable energy portfolio standard established pursuant to this subchapter, and may sell or transfer any renewable energy credit or solar renewable energy credit not needed to meet said standards.

(b) An unused renewable energy credit or solar renewable energy credit shall exist for 3 years from the date created.

(c) The 3-year period referred in subsection (b) of this section above shall be tolled during any period that a renewable energy credit or solar renewable energy credit is held by the SEU as defined in § 8059 of Title 29.

(d) The Renewable Energy Taskforce shall be formed for the purpose of making recommendations about the establishment of trading mechanisms and other structures to support the growth of renewable energy markets in Delaware.

(1) The Taskforce shall comprise the following appointments:

a. Four appointments by the Secretary of DNREC, which shall include 1 representative from the renewable energy research and development industry, 1 representative from the local renewable energy manufacturing industry, and 1 representative from an environmental advocacy organization;

b. One appointment by the Commission;

c. One appointment by Delmarva Power & Light;

d. One appointment by the Delaware Electric Cooperative;

e. One appointment by municipal electric companies;

f. One appointment by the Sustainable Energy Utility;

g. One appointment by the Delaware Public Advocate; and

h. One appointment by the Delaware Solar Energy Coalition.

(2) The Taskforce shall be charged with making recommendations about and reporting on the following and matters related thereto:

a. Establishing balanced markets mechanisms for REC and SREC trading;

b. Establishing REC and SREC aggregation mechanisms and other devices to encourage the deployment of renewable, distributed renewable, and solar energy technologies in Delaware with the least impact on retail electricity suppliers, municipal electric companies and rural electric cooperatives;

c. After an analysis by the Taskforce, the annual progress towards achieving the minimum cumulative percentages for all renewable energy resources including, but not limited to, solar and other eligible energy resources and making appropriate recommendations based upon deliberate and factual analysis and study;

d. Minimizing the cost for complying with any portion of this subchapter based upon deliberate and factual analysis and study;

e. Establishing revenue certainty for appropriate investment in renewable energy technologies, including, but not limited to, consideration of long-term contracts and auction mechanisms;

f. Establishing mechanisms to maximize in-state renewable energy generation and local manufacturing; and

g. Ensuring that residential, commercial, and utility scale photovoltaic and solar thermal systems of various sizes are financially viable and cost-effective investments in Delaware.

(3) The Taskforce shall be formed by October 26, 2010 and be staffed by the Delaware Energy Office. The Taskforce shall make recommendations to the Commission, the Secretary of DNREC, the Board of Directors for rural electric cooperatives, and the pertinent local regulatory authorities on the abovementioned subjects for their consideration. Upon making these recommendations, the Commission, DNREC, the Board of Directors for rural electric cooperatives, or the pertinent local regulatory authorities, as appropriate, shall promulgate rules and regulations, or adopt policies, based on the Taskforce findings.

[75 Del. Laws, c. 205, § 1; 77 Del. Laws, c. 131, §§ 6-8; 77 Del. Laws, c. 451, § 22.;](#)

#### **§ 361. Renewable energy credit transaction fee.**

The Commission may impose an administrative fee on a retail electricity supplier with respect to a renewable energy credit transaction, but the amount of the fee may not exceed the Commission's actual direct cost of processing the transaction. If a municipal electric company opt to use the Commission's renewable energy credit tracking system, it shall be assessed the same transaction fees that the Commission assesses other retail electricity suppliers.

[75 Del. Laws, c. 205, § 1.;](#)

#### **§ 362. Rules and regulations.**

(a) The Commission shall adopt rules and regulations necessary to implement the provisions of this subchapter as it applies to retail electricity suppliers. The Commission shall make its regulations as consistent as possible with those of other states in the region with similar requirements in order to minimize the compliance burdens imposed by this statute and in order to avoid duplication of effort.

(b) For regulated utilities, the Commission shall further adopt rules and regulations to specify the procedures for freezing the minimum cumulative solar photovoltaic requirement as authorized under § 354(i) and (j) of this title, and for adjusting the alternative compliance payment and solar alternative compliance payment as authorized under § 358(d)(4) and (e)(3) of this title.

[75 Del. Laws, c. 205, § 1; 77 Del. Laws, c. 451, § 20.;](#)

#### **§ 363. Special provisions for municipal electric companies and rural electric cooperatives.**

(a) Any municipal electric company and any rural electric cooperative may elect to exempt

itself from the requirements of this subchapter, if it develops and implements a comparable program to the renewable energy portfolio standards for its ratepayers beginning in 2013.

(b) In the event that a municipal electric company or rural electric cooperative elects to exempt itself from the requirements of this subchapter, it shall submit a plan at the beginning of 2013 to its local regulatory authority, the Delaware General Assembly, and the Delaware Energy Office detailing its approach to achieve a level of renewable energy penetration in its service territory, and shall submit an annual compliance report to its local regulatory authority, the Delaware General Assembly, and the Delaware Energy Office detailing its progress towards yearly targets.

(c) The Board of Directors for a rural electric cooperative or local regulatory authority of a municipal electric company shall base renewable energy portfolio standard decisions on the need, value and feasibility of the renewable energy resources pertaining to the economic and environmental well being of their members. The Board of Directors for a rural electric cooperative or local regulatory authority of a municipal electric company shall continue to evaluate all renewable energy resources including but not limited to: wind, biomass, hydroelectric and solar and submit an annual report to the General Assembly and their membership as to their determination.

(d) In the event that a municipal electric company or rural electric cooperative elects to exempt itself, it shall either contribute to the Green Energy Fund at levels commensurate with other retail electricity suppliers or create an independent, self-administered fund separate from the Green Energy Fund to be used in support of energy efficiency technologies, renewable energy technologies, or demand side management programs, into which it shall make payments of at least \$0.178 for each megawatt-hour it sells, transmits, or distributes in this State.

(e) The total cost of compliance with this section shall include the costs associated with any ratepayer funded renewable energy rebate programs, REC and SREC purchases, or other costs incurred in meeting renewable energy programs.

(f) The total cost of complying with eligible energy resources shall not exceed 3% of the total cost of the purchased power of the utility for any calendar year.

(g) The total cost of complying with the solar photovoltaic program shall not exceed 1% of the total cost of the purchased power of the affected utility for any calendar year.

(h) At no time during any calendar year shall the total cost of compliance with this section result in an increase of an average consumer's monthly bill in excess of 4%.

(i) The Board of Directors of a rural electric cooperative and the local regulatory authority of a municipal electric company may approve an increase in the limit on the cost of compliance, as specified in subsections (f) and (g) of this section above.

(j) In pursuit of their renewable energy goals, a municipal electric company or rural electric cooperative shall receive all appropriate multiple credits for specific energy sources, as established under §§ 356 and 357 of this title and sited in Delaware for the life of contracts for renewable energy credits.

[75 Del. Laws, c. 205, § 1; 77 Del. Laws, c. 451, § 21.](#)

#### **§ 364. Special provisions for customers of Public Service Commission-regulated electric companies.**

All costs arising out of contracts entered into by a Commission-regulated electric company pursuant to § 1007(d) of this title shall be distributed among the entire Delaware customer base of such companies through an adjustable nonbypassable charge which shall be established by the Commission. Such costs shall be recovered if incurred as a result of such contracts unless, after Commission review, any such costs are determined by the Commission to have been

incurred in bad faith, are the product of waste or out of an abuse of discretion, or in violation of law.

[76 Del. Laws, c. 248, § 2.;](#)

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